

MARKET CONDUCT EXAMINATION REPORT
AS OF DECEMBER 31, 2003

John Hancock Life Insurance Company
200 Clarendon Street
Boston MA 02117

NAIC Group Code: 0356
NAIC Company Code: 65099
Colorado Company No.: 910

EXAMINATION PERFORMED
for the
STATE OF COLORADO
DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF INSURANCE

**John Hancock Life Insurance Company
200 Clarendon Street
Boston MA 02117**

**MARKET CONDUCT
EXAMINATION REPORT
as of
December 31, 2003**

Examination Performed by

**Stephen E. King, CIE
Jo-Anne G. Fameree, AIE, FLMI, AIRC, ACS**

Independent Market Conduct Examiners

August 26, 2004

The Honorable Doug Dean
Commissioner of Insurance
State of Colorado
1560 Broadway, Suite 850
Denver, Colorado 80202

Commissioner Dean:

A market conduct examination of the John Hancock Life Insurance Company was conducted in accordance with and pursuant to §§10-1-203 and 10-3-1106, Colorado Revised Statutes. This examination focused on the Company's long-term care insurance business, involving a review of underwriting, rating, policyholder service, marketing, sales and claims practices. The Company records were examined at their offices, located at 200 Clarendon Street, Boston MA 02117.

The time period covered by the examination was from January 1, 2003 through December 31, 2003.

The results of the examination, herein, are respectfully submitted.

Stephen E. King, CIE

Jo-Anne G. Fameree, AIE, FLMI, AIRC, ACS

**MARKET CONDUCT
EXAMINATION REPORT
OF
JOHN HANCOCK LIFE INSURANCE COMPANY**

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COMPANY PROFILE

The charter of the John Hancock Mutual Life Insurance Company, (the “Company”) was approved by the governor of Massachusetts on April 21, 1862 and the Company commenced business on December 27, 1862. The Company was granted a Colorado license and began operations in Colorado on November 26, 1928.

The Company’s Board of Directors unanimously adopted a Plan of Reorganization. As of February 1, 2000, John Hancock Mutual Life Insurance Company converted from a mutual life insurance company to a stock life insurance company, John Hancock Life Insurance Company (John Hancock). John Hancock became a wholly owned subsidiary of John Hancock Financial Services, Inc., (“JHFS”) a holding company. JHFS became a publicly traded company on the New York Stock Exchange. On April 28, 2004, JHFS merged with Manulife Financial Corporation and along with John Hancock, became a subsidiary of Manulife Financial Corporation.

COMPANY OPERATIONS AND MANAGEMENT

The Company is licensed and operates in all fifty (50) states, the District of Columbia, Guam, Puerto Rico, the U.S. Virgin Islands and the Canadian Provinces of Quebec, Ontario, Manitoba, Saskatchewan and Alberta and is also authorized by the U.S. Department of Defense to sell life insurance to overseas bases, under the European Atlantic and Pacific Commands of the United States Armed Forces.

John Hancock is licensed to transact business as a life insurance company in Colorado, for the following lines of business: Accident and Health, Annuities, Credit (Life, Accident and Health), General Life and Variable contracts.

John Hancock entered into the long-term care business in 1987 and has strived to be a leader, through its innovative product designs and distribution strength. The Company markets group and individual long-term care products and is one of only two carriers providing coverage through the federal long-term care program.

Since entry into the marketplace, John Hancock’s captive agency force has provided significant growth to individual long-term care sales. In recent years, the distribution strategy has evolved to widen its focus and utilize other distribution channels such as independent sales representatives and broker-dealers.

The Company reported approximately \$5,133,951 of long-term care earned premiums in 2003, for the State of Colorado, which represents a market share of approximately 4.3% of all long-term care insurance sold in Colorado.

PURPOSE AND SCOPE OF EXAMINATION

Independent Examiners, contracting with the Colorado Division of Insurance (DOI), in accordance with Colorado Insurance Law, §§ 10-1-201, 10-1-203 and 10-1-204.C.R.S., which allows the Commissioner the discretion and authority to schedule and conduct examinations for the purpose of auditing business practices of insurers, reviewed certain business practices of the John Hancock Life Insurance Company. The findings in this report, including all work products developed in the production of this report, are the sole property of the Colorado Division of Insurance.

The purpose of the examination was to determine the Company's compliance with Colorado insurance laws and generally accepted operating principles related to long-term care insurance. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record. The preceding statements are not intended to limit or restrict the distribution of this report.

Examiners conducted the examination in accordance with procedures developed by the Colorado Division of Insurance, based on model procedures developed by the National Association of Insurance Commissioners. Examiners have relied primarily on records and materials maintained by the Company, generally covering the examination period from January 1, 2003, through December 31, 2003.

The examination included review of the following:

- Company Operations / Management
- Marketing and Sales
- Producers
- Underwriting - Forms / Policyholder Services
- Underwriting - Rating
- Underwriting - Applications
- Underwriting - Cancellations
- Claims

This examination report is a report written by exception. References to any practices, procedures or files, that contained no improprieties, were omitted. Therefore, the majority of the material reviewed may not be addressed in this report. In the course of the examination, Examiners provided the Company with Examination Memorandums and Comment Forms to obtain information ask questions and/or address noted discrepancies. When Examiners issue either form, the Company is required to provide a detailed response. Generally, only the Comment Form will cite a specific statute or regulation when a potential non-compliant situation is identified.

An error tolerance level of plus or minus ten dollars (\$10.00) was allowed in most cases where monetary values were involved. However, in cases where monetary values were generated by computer or other systemic methodology, a zero (\$0) tolerance level was applied in order to identify possible system errors. Additionally, a zero (\$0) tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's established policies, procedures, rules and/or guidelines.

When utilizing a sampling technique to select a sample file population for review, a minimum error tolerance level of five percent (5%) was established to determine reportable exceptions. However, if an issue appeared to be systemic or if, as a result of the file selection process, it was not possible to determine an exception percentage, an error tolerance percentage was not utilized. Also, if more than one sample population was reviewed in a particular area of the examination (e.g. timeliness of claims payment), and if one or more of the samples yielded an exception rate of five percent (5%) or more, the results of any other samples with exception percentages less than five percent (5%) were also included.

Examination findings may result in administrative action by the Division of Insurance. During the course of the examination, all unacceptable or non-complying practices of the Company may not have been discovered. However, failure to identify specific Company practices does not constitute acceptance of such practices. The contents of this report should not be construed to either endorse or discredit any insurance company or product.

EXAMINERS' METHODOLOGY

In accordance with §10-1-203, Colorado Revised Statutes, examiners reviewed the Company's business practices to determine compliance with Colorado insurance laws and regulations, as they pertain to long-term care insurance companies, as shown in the following exhibit.

Exhibit 1

Law/Regulation	Concerning
Section 10-1-108	Duties of Commissioner – reports – publications – fees – disposition of funds - adoption of rules.
Section 10-1-109	Rules and regulations of commissioner
Section 10-1-111	Grounds and procedure for suspension or revocation of certificate or license of entities.
Section 10-1-128(6)(a)	Anti-fraud Plan
Sections 10-2-1001 to 10-2-1101	Managing General Agent Act
Section 10-2-103	Licenses - General Provisions - Definitions
Sections 10-2-401 to 10-2-417	Licenses – Licensing and Appointment of Insurance Producers
Sections 10-2-701 to 10-2-704	Licenses – Business Conduct of Licensees
Section 10-3-105	Certificate of Authority
Section 10-3-109	Reports, statements, assessments, and maintenance of records - publication - penalties for late filing, late payment, or failure to maintain.
Sections 10-3-1101 to 10-3-1104	Unfair Competition – Deceptive Practices
Sections 10-19-101 to 10-19-115	Long –term Care Insurance Act
Regulation 1-1-7	Market Conduct Record Retention
Regulation 1-1-8	Penalties And Timelines Concerning Division Inquiries And Document Requests
Regulation 1-2-9	Fees Charged by Agents/Brokers
Regulation 2-1-7	Concerning Issuance of a Certificate of Authority
Regulation 4-4-1	Concerning Requirements for Long-term Care Insurance
Regulation 4-4-2	Implementation of Basic and Standard Long-term Care Insurance Plans
Regulation 4-4-3	Suitability Standards for Long-term Care Insurance Products

Company Operations / Management

Examiners verified the Certificate of Authority and reviewed Company management, administrative controls, as well as record retention practices. Examiners also reviewed portions of the Company's annual financial statement filings.

The Company's cooperation during the course of the examination was noted.

Marketing and Sales

Examiners reviewed all thirty-four (34) marketing and sales pieces used in the State of Colorado during the examination period. The marketing and sales materials were reviewed to ensure compliance with Colorado insurance law and to verify that insurance products were accurately represented.

Producers

Examiners reviewed commission records to ensure that all producers receiving commissions, or a percentage of premiums, were properly licensed.

Underwriting – Forms / Policyholder Services

Examiners reviewed all forms used during the examination period, as provided by the Company, to ensure compliance with Colorado insurance law.

New Business Underwriting Practices and Rating

Examiners randomly selected a sample of fifty (50) individual new business files from a population of 2,892. The Company could not locate one (1) file; therefore forty-nine (49) files were reviewed. Additionally, Examiners reviewed all thirty-four (34) Colorado resident enrollment files, written in 2003, from the ten (10) Colorado situated policyholder groups.

Examiners randomly selected a sample of fifty (50) individual policies in which a renewal rate change resulted from the election of an inflation option. Of the fifty (50) files selected, two (2) files were eliminated from the selection as they were not John Hancock business. Therefore, only forty-eight (48) files were reviewed. The total population of individual policyholders electing an inflation option was seventy-seven (77).

Underwriting – Cancellations / Declinations

Examiners randomly selected a sample population of fifty (50) individual cancellation files from a population of 270. One (1) file was eliminated as not being John Hancock business; and one (1) file could not be located. Therefore, forty-eight (48) files were reviewed. Examiners also selected and reviewed a sample of fifty (50) individual declination files from a population of 481. Additionally, regarding group insurance, both declined certificate-holder files were reviewed.

Each file was reviewed to ensure that both fair and consistent underwriting practices were used, timely notifications were given and when applicable, premium refunds were timely and accurate.

Claims

Examiners reviewed all thirteen (13) group paid claims and all nine (9) individual paid claims files. In addition, the one (1) individual claim file, in which payment was denied, was reviewed. Examiners evaluated the Company's claims handling guidelines and claim information, to determine timeliness of processing and accuracy of payment.

EXAMINATION REPORT SUMMARY

The examination resulted in a total of seven (7) findings in which the Company did not appear to be in compliance with Colorado insurance law. The following summarizes Examiner findings.

Company Operations / Management: Examiners found two (2) areas of concern in reviewing the Company Operations / Management. Examiners identified the following issues:

- Certifying compliance of non-compliant policy forms, in some cases.
- Failing to submit all required financial statement filings.

Marketing and Sales: In the area of Marketing and Sales, no compliance issues or concerns were identified and thus are not addressed in this report.

Producers: In the area of Producers, no compliance issues or concerns were identified and thus are not addressed in this report.

Underwriting – Forms / Policyholder Services: Examiners found three (3) areas of concern in reviewing the Company's policy forms. Examiners identified the following issues:

- Including exclusionary provisions that are not allowed under Colorado insurance law in some policy forms.
- Failing, in some cases, to use fraud warning language that is "substantially the same" as the fraud warning language required by Colorado insurance law.
- Failing, in some cases, to use the mandatory text and sequence of text in outlines of coverage.

New Business Underwriting Practices and Rating: Examiners found two (2) areas of concern in reviewing the Company's New Business Underwriting Practices and Rating. Examiners identified the following issue:

- Failing, in some cases, to determine the applicant's financial suitability for coverage.
- Failing, in some cases, to substantiate that the required information regarding the Basic and Standard plans was provided to applicants.

Underwriting – Cancellations: In the area of Cancellation refunds, no compliance issues or concerns were identified and thus are not addressed in this report.

Claims: In the area of Claims, no compliance issues or concerns were identified and thus are not addressed in this report.

Results of previous Market Conduct Exams are available on the Colorado Division of Insurance's website at www.dora.state.co.us/insurance or by contacting the Colorado Division of Insurance.

A copy of the Company's response, if applicable, can be obtained by contacting the Company or the Colorado Division of Insurance.

MARKET CONDUCT EXAMINATION REPORT

FACTUAL FINDINGS

JOHN HANCOCK LIFE INSURANCE COMPANY

COMPANY OPERATIONS AND MANAGEMENT
FINDINGS

Issue A1: Certifying compliance of non-compliant policy forms, in some cases.
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Section 10-3-1104 C.R.S. Unfair methods of competition and unfair or deceptive acts or practices, states in part:

- (1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

...(s) Certifying pursuant to section 10-16-107.2 or issuing, soliciting, or using a policy form, endorsement, or rider that does not comply with statutory mandates. Such solicitation or certification shall be subject to the sanctions described in Sections 10-2-704, 10-2-801, 10-2-804, 10-3-1107, 10-3-1108, and 10-3-1109.

The Company filed a certification with the Division of Insurance, certifying that the policy forms identified on the Listing of New Policy Forms and/or Annual Report filed with the certification, were in full compliance with all relevant Colorado insurance laws and regulations.

By signing the Certificate of Compliance, the Company officer is attesting to the fact that he/she has read and understands each of the applicable Colorado laws, Regulations and Bulletins and that the forms certified are in full compliance with the requirements in effect on the date of the certification.

It appears that in some cases, the Company's forms were not in compliance with the requirements of Colorado insurance law as evidenced by Issues E1, E2 and E3; therefore, the Certificate of Compliance received by the Colorado Division of Insurance in 2003, did not meet the requirements of Colorado insurance law.

Recommendation No. 1:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of §10-3-1104 C.R.S. In the event the Company is unable to show such proof; evidence should be provided to the Division of Insurance that the Company has brought the referenced forms into compliance and submitted revised certifications as necessary. Additionally, the Company should provide evidence that it has taken appropriate steps to ensure future compliance with the applicable Colorado insurance laws.

Issue A2: Failing to submit all of the required financial statement filings.

Section 10-3-109 C.R.S., Reports, statements, assessments, and maintenance of records - publication - penalties for late filing, late payment, or failure to maintain, states in part:

(1) Every insurance company doing business in this state, on or before the first day of March in each year, shall render to the commissioner a report, signed and sworn to by its chief officers, of its condition on the preceding thirty-first day of December, which shall include a detailed statement of assets and liabilities, the amount and character of its business transacted, and moneys received and expended during the year, and any further details of expenditures, and such other information, to be included in the report or supplementary thereto, which the commissioner deems necessary...

Section 10-3-208 C.R.S., Financial statements, states in part:

(3) Each domestic, foreign, and alien insurer that is authorized to transact the business of insurance in this state shall on or before March 1 of each year file with the national association of insurance commissioners a copy of its annual statement convention blank, along with such additional filings as prescribed by the commissioner for the preceding year. The information filed with the national association of insurance commissioners shall include the signed jurat page and the actuarial certification, if applicable. Any amendments and addendums to the annual statement filing subsequently made with the commissioner shall also be filed with the national association of insurance commissioners

Colorado Amended Regulation 3-1-10, Concerning Financial Statement Filings, Accounting Standards And Reporting Of Liabilities, as promulgated under the authority of §§ 10-1-108, 10-1-109, 10-3-109, 10-3-208, 10-5-117, 10-14-505, 10-14-124, 10-16-109, and 10-16-111, C.R.S., states in part:

Section 2 Background And Purpose

Colorado insurance law provides that regulated companies must file financial statements annually with the Commissioner of Insurance. Insurers subject to the provisions of § 10-3-208, C.R.S. are required to file what is known as the convention blank adopted from year to year by the National Association of Insurance Commissioners (NAIC)...

Sup. Inst. 15-5 which is contained on pages 358 and 359 of the NAIC instruction manual states:

“If a policy form meets at least one of these three criteria, then Instructions 1 through 16 are applicable. Total state experience for all forms sold in the state, *including forms that did not meet any of the reporting criteria, is to be reported in Lines 5, 6, and 7.* [Emphasis added] This data for forms that do not meet the 10% test may be estimated using the percentage of premium method described in paragraph A.”

The Long-Term Care Experience Reporting – Form C, was not included with the financial statements filed on behalf of the Company for the examination period.

The Company was exempt from the policy level reporting requirements, as the premium for each of the Company's policy grouping represented less than 10% of the total nationwide inforce premium. However, based on the NAIC's instructions for the Long-Term Care Experience Reporting – Form C, specifically lines 5, 6, and 7 must be completed and Form C filed with the annual statement, regardless of the Company's exemption from policy level information reporting.

Therefore, it appears that by not completing and filing Form C, the Company is not in compliance with the requirements of Colorado insurance law, as outlined above.

Recommendation No. 2:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of §§ 10-3-109 and 10-3-208 C.R.S., and Regulation 3-1-10. In the event the Company is unable to show such proof; evidence should be provided to the Division of Insurance that the Company has filed amended financial statements with the NAIC. Additionally, the Company should provide evidence that it has taken appropriate steps to ensure future compliance with the applicable Colorado insurance law.

UNDERWRITING – FORMS / POLICYHOLDER SERVICES
FINDINGS

Issue E1: Including exclusionary provisions that are not allowed under Colorado insurance law in some policy forms.
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Colorado Amended Regulation 4-4-1, Concerning Requirements for Long Term Care Insurance, promulgated under the authority of §10-1-109(1), 10-3-110(1) and 10-19-113.7 C.R.S., states in part:

VI. Policy Practices and Provisions

B. Limitations and Exclusions. No policy may be delivered or issued for delivery in this state as long-term care insurance if such policy limits or excludes coverage by type of illness, treatment, medical condition or accident, except as follows:

1. Preexisting conditions or diseases.
2. Mental or nervous disorders; however, this shall not permit exclusion or limitation of benefits on the basis of Alzheimer's disease, senile dementia, other organic brain syndromes, or other types of senility diseases;
3. Treatment provided in a government facility (unless otherwise required by law) when there are no charges for services, services for which benefits are available under Medicare or other governmental program (except Medicaid or except as otherwise required by law), any state or federal workers' compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law, services provided by a member of the covered person's immediate family and services for which no charge is made normally in the absence of insurance.
4. This Subsection B is not intended to prohibit exclusions and limitations by type

The Company's form D-EXCL (2002-2) contains the following exclusion, which is not included in the list of exclusions permitted under Colorado Regulation 4-4-1:

"This policy does not cover:

- Care, services or treatment specifically provided for detoxification or rehabilitation for alcohol or drug addition; or"

The Company's forms BSC-02, CO-2, LTC-96 9/96, NH-99 4/99 and LTC-02 each contain the following exclusion, which is not included in the list of exclusions permitted under Colorado Regulation 4-4-1:

"This Policy does not cover care, treatment or charges:

-
- Required as result of alcoholism or drug addiction (unless drug addition was a result of the administration of drugs as part of treatment by a Physician.)”

It appears that the inclusion of the above referenced exclusions in the Company’s policy forms is not in compliance with the requirements of Colorado Regulation 4-4-1.

Recommendation No. 3:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Regulation 4-4-1. In the event the Company is unable to show such proof; the Company should provide evidence to the Division of Insurance that it has revised the form language and has taken steps to ensure future compliance with Colorado insurance law. Additionally, an evaluation should be made of claims denied under these provisions and adjustments should be made accordingly.

Issue E2: Failing, in some cases, to use fraud warning language that is “substantially the same” as the fraud warning language required by Colorado insurance law.

Section 10-1-128(6)(a) C.R.S. Fraudulent insurance acts – immunity for furnishing information relating to suspected insurance fraud – legislative declaration, states:

Each insurance company shall provide on all printed applications for insurance, or on all insurance policies, or on all claim forms provided and required by an insurance company, or required by law, whether printed or electronically transmitted, a statement, in conspicuous nature, permanently affixed to the application, insurance policy, or claim form substantially the same as the following:

“It is unlawful to knowingly provide false, incomplete, or misleading facts or information to an insurance company for the purpose of defrauding or attempting to defraud the company. Penalties may include imprisonment, fines, denial of insurance and civil damages. Any insurance company or agent of an insurance company who knowingly provides false, incomplete, or misleading facts or information to a policyholder or claimant for the purpose of defrauding or attempting to defraud the policyholder or claimant with regard to a settlement or award payable from insurance proceeds shall be reported to the Colorado division of insurance within the department of regulatory agencies.”

The fraud warning language below was used on forms APPRS 9/01, LTCAPP02, REI-APP, FCSUPP02, COAPP02 and SGAPP02.

“Fraud Notice. Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or a statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.”

The Company utilizes the fraud warning language below on each of the following forms.

1. REV 2/2000, Adult Day Care claim form – doesn’t contain “and may be subject to criminal and civil penalties” language.
2. HHSR-02/03, Home Health Service Record – State specific fraud disclosure sheets attached, none for Colorado
3. IOC-02/03, Home Care Services/Itemization of Charges – State specific fraud disclosure sheets attached, none for Colorado
4. HHSUPV-02/03, Home Health Aide Supervision Form – State specific fraud disclosure sheets attached, none for Colorado

“Any person who with intent to defraud or knowingly that he is facilitating a fraud against an insurer, submits an application or files a claim containing a false or deceptive statement is guilty of insurance fraud and may be subject to criminal and civil penalties.”

The fraud warning language below was used on form COFN – 02/03.

“Fraud Notice. Any person who with an intent to defraud or knowing that he/she is facilitating a fraud against an insurer, submits an application or files a claim containing a false or deceptive statement is guilty of insurance fraud and may be subject to criminal and civil penalties.”

The fraud warning language used by the Company as referenced above, does not appear to be “substantially the same” as the fraud warning language required by Colorado insurance law.

Recommendation No. 4:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-1-128, C.R.S. In the event the Company is unable to show such proof; the Company should provide evidence to the Division of Insurance that it has revised the fraud warning language on all forms requiring such warning to ensure compliance with Colorado insurance law.

Issue E3: Failing in some cases to use the mandatory text and sequence of text in outlines of coverage.
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Colorado Amended Regulation 4-4-1, Concerning Requirements for Long Term Care Insurance, states in part:

XIV. Standard Format Outline of Coverage

This section of the regulation implements, interprets and makes specific, the provisions of § 10-19-112, C.R.S., in prescribing a standard format and the content of an outline of coverage.

...D. Use of the text and sequence of text of the standard format outline is mandatory, unless otherwise specifically indicated.

E. Format for outline of coverage is contained in Appendix C.

The Company's individual product outlines of coverage, OCBSC-02, OCLTC-02, OCCO-02 and group product outline of coverage GLTC-DIS (2002-02) deviate from the mandatory text and sequence of text required for outlines of coverage under Colorado insurance law.

Specifically:

1. the Company inserted "Federal Tax Consequences" language in a section other than the "Additional Features" as allowed for under the standard format.
2. the Company inserted "Terms Under Which the Company May Change Premiums" language in a section other than the "Additional Features" as allowed for under the standard format.
3. The sequencing of the provisions was modified from that of the standard outline, in particular item 9 and item 3 were displaced.

The Company's individual product outlines of coverage, LTCOC99 4/99 and NHOC99 4/99, deviated from the mandatory sequence of text required for outlines, in that item 9 replaced item 3 and all items thereafter were shifted down in order by one.

Based on this information, it appears that the Company is not in compliance with the requirements of Regulation 4-4-1 as outlined above.

Recommendation No. 5:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Regulation 4-4-1. In the event the Company is unable to show such proof; it should provide evidence to the Division of Insurance that it has revised the outlines of coverage to ensure compliance with Colorado insurance law.

NEW BUSINESS UNDERWRITING PRACTICES AND RATING
FINDINGS

Issue G1: Failing, in some cases, to determine the applicant's financial suitability for coverage.

Colorado Regulation 4-4-3 Suitability Standards for Long-term Care Insurance Products as promulgated pursuant to Sections 10-1-109 and 10-19-113.7, C.R.S., requires in part:

III. Rules

B. ... 3. Effective January 1, 1997, a completed personal worksheet shall be returned to the issuer prior to the issuer's consideration of the applicant for coverage, except the personal worksheet need not be returned for sales of employer group long-term care insurance to employees and their spouses.

F. If the issuer determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the issuer may reject the application. If rejected, the issuer shall send the applicant a letter substantially similar to Appendix C. However, if the applicant has declined to provide financial information, the issuer may use some other method to verify the applicant's intent. Either the applicant's returned letter or a record of the alternative method of verification shall be made part of the applicant's file.

Individual New Business Files

Population	Sample Size	Number of Exceptions	Percentage to Sample
2892	49	5	10%

A sample of fifty (50) files was selected from a population of 2892. However, forty-nine (49) individual new business files were reviewed (the Company could not locate one (1) file) yielding five (5) exceptions (10%) in which the Company failed to determine the applicant's financial suitability for coverage.

In four (4) instances, the applicant elected not to provide the financial information required on the Long-Term Care Insurance Personal Worksheet. However, the applicant's file did not contain documentation that the Company made an attempt "to verify the applicant's intent", as required by the above referenced Regulation.

In one (1) instance, there was no Long-Term Care Insurance Personal Worksheet and the applicant's file did not contain documentation that the Company made an attempt "to verify the applicant's intent", as required by the above referenced Regulation.

Declined Files

Population	Sample Size	Number of Exceptions	Percentage to Sample
481	50	5	10%

A sample of fifty (50) fifty individual declined files, from a population of 481, contained five (5) exceptions (10%) in which the Company failed to determine the applicant's financial suitability for coverage.

In three (3) instances, the applicant elected not to provide the financial information required on the Long-Term Care Insurance Personal Worksheet. The applicant's file did not contain documentation that the Company made an attempt "to verify the applicant's intent", as required by the above referenced Regulation.

In two (2) instances, there was no Long-Term Care Insurance Personal Worksheet in file and the applicant's file did not contain documentation that the Company made an attempt "to verify the applicant's intent", as required by the aforementioned Regulation.

Based on the above information, it appears that the Company has, in some cases, failed to take the necessary steps to determine the applicant's financial suitability for coverage.

Recommendation No. 6:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Regulation 4-4-3. In the event the Company is unable to show such proof; the Company should provide evidence to the Division of Insurance that it has taken steps to ensure future compliance with Colorado insurance law.

Issue G2: Failing, in some cases, to substantiate that cost and benefit information, regarding the Basic and Standard Long-term Care Plans, was provided to applicants.
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Colorado Regulation 4-4-2 Implementation of Basic and Standard Long Term Care Insurance Plans, as promulgated pursuant to Sections 10-19-113.7 and 10-1-109, Colorado Revised Statutes (C.R.S.), states in part:

Section 4. Rules

C. Carriers and producers selling long-term care insurance shall present the Basic and Standard Long-term Care Plans to each person solicited for long-term care insurance. With respect to group long-term care insurance, if the group policyholder rejects the offer of the Basic and Standard Long-term Care Insurance Plans, then mailings to members of the group need not include information on the Basic and Standard Long-term Care Plans. With respect to all other types of long-term care insurance, for direct mail business the Basic and Standard Long-term Care Plans must be included in all offerings.

Carriers and producers shall make reasonable efforts to obtain the signature of each applicant for long-term care insurance on a statement certifying that the applicant has been provided information about the Basic Long-term Care Plan and Standard Long-term Care Plan and an explanation of these plans' benefits and costs. If application for the Basic Long-term Care Plan or Standard Long-term Care Plan is made directly with the carrier by mail or other method, the carrier's obligation under this subsection shall be satisfied if the carrier includes in the application materials a statement to be signed and returned to the carrier pursuant to this subsection.

Individual New Business Files

Population	Sample Size	Number of Exceptions	Percentage to Sample
2,892	49	10	20%

A sample of fifty (50) files was selected from a population of 2892. However, forty-nine (49) individual new business files were reviewed (the Company could not locate one (1) file) yielding ten (10) exceptions (20%) in which the Company failed to substantiate that cost and benefit information, regarding the Basic and Standard Long-term Care Plans, was provided to applicants.

Declined Files

Population	Sample Size	Number of Exceptions	Percentage to Sample
481	50	15	30%

A sample of fifty (50) declined business files, from a population of 481, contained fifteen (15) exceptions (30%) in which the Company failed to substantiate that cost and benefit information, regarding the Basic and Standard Long-term Care Plans, was provided to applicants.

Based on this information, it appears that the Company did not meet the requirements of Colorado Regulation 4-4-2, as outlined above.

Recommendation No. 7:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Regulation 4-4-2. In the event the Company is unable to show such proof; the Company should provide evidence to the Division of Insurance that it has taken steps to ensure that the appropriate information is provided to applicants and the appropriate documentation of such is maintained in the records.

SUMMARY OF ISSUES AND RECOMMENDATIONS

ISSUES	Rec. No.	Page No.
COMPANY OPERATIONS AND MANAGEMENT		
Certifying compliance of non-compliant policy forms, in some cases.	1	14
Failing to submit all of the required financial statement filings.	2	16
UNDERWRITING – FORMS / POLICYHOLDER SERVICES		
Including exclusionary provisions that are not allowed under Colorado insurance law in some policy forms.	3	19
Failing, in some cases, to use fraud warning language that is “substantially the same” as the fraud warning language required by Colorado insurance law.	4	21
Failing, in some cases, to use the mandatory text and sequence of text in outlines of coverage.	5	22
NEW BUSINESS UNDERWRITING PRACTICES AND RATING		
Failing, in some cases, to determine the applicant's financial suitability for coverage.	6	25
Failing, in some cases, to substantiate that cost and benefit information, regarding the Basic and Standard Long-term Care Plans, was provided to applicants.	7	27

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